

House Bill 1093

By: Representatives Everson of the 106th, Floyd of the 99th, Heard of the 104th, Cox of the 102nd, Coan of the 101st, and others

A BILL TO BE ENTITLED

AN ACT

To amend Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, so as to provide that arresting officers in certain cases may issue a nontraffic misdemeanor citation and release the person arrested on his or her recognizance; to provide for the development, form, contents, and use of a nontraffic misdemeanor citation form; to provide for accountability; to provide for the conditions for the issuance of such citation; to authorize the use of such citation for the purposes of prosecuting such offense as the summons and accusation; to provide that the use of such citation shall not bar subsequent issuance of a warrant, indictment, or accusation; to provide that a person cited shall submit to post-arrest processing as required by law; to amend Code Section 16-10-51 of the Official Code of Georgia Annotated, relating to bail jumping, so as to include individuals who were released on their own recognizance pursuant to the issuance of a nontraffic misdemeanor citation; to provide for other related matters; to provide for effective dates and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is amended by adding a new Article 5 to Chapter 4, relating to arrest of persons, to read as follows:

"ARTICLE 5

17-4-80.

The commissioner of public safety shall develop a uniform nontraffic citation form for use by all law enforcement officers who are empowered to enforce the criminal laws and ordinances in effect in this state. Such form may serve as the citation, summons,

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1 accusation, or other instrument of prosecution of the offense or offenses for which the
2 accused is charged as provided in this article, and as the record of the disposition of the
3 matter by the court before which the accused is brought, and shall contain such other matter
4 as the commissioner shall provide. Each such form shall have a unique identifying number
5 which may serve as the docket number for the court having jurisdiction of the accused.

6 17-4-81.

7 The Board of Public Safety, by rule and regulation, shall establish a system of
8 accountability for all nontraffic citations, and it shall also provide the procedures governing
9 the use and issuance of such citations in accordance with the provisions of this article.

10 17-4-82.

11 (a) A law enforcement officer empowered by law to make an arrest for a criminal
12 misdemeanor offense shall have the discretion to arrest the offender and issue a nontraffic
13 citation to any person whom he or she has reasonable grounds to believe has committed a
14 nontraffic misdemeanor in the presence of the officer or within the immediate knowledge
15 of the officer. A nontraffic citation may be issued in the field or at the headquarters, any
16 precinct station of the law enforcement agency of the officer, or at the jail.

17 (b) A law enforcement officer may issue a nontraffic citation if:

18 (1) The accused provides a valid driver's license or state issued identification card
19 containing a photo of the accused;

20 (2) The accused agrees to acknowledge receipt of the citation and of his or her obligation
21 to appear for court appearances. The officer shall advise the person that signing the
22 citation is not an admission of guilt and that failure to sign will result in the person having
23 to post bond. If the person refuses to sign the citation, it shall constitute reasonable cause
24 to believe that the person will not appear at court appearances and the officer shall not
25 be authorized to issue such citation and shall continue with the custodial arrest and bring
26 the person before a judicial officer as is otherwise provided by law;

27 (3) The accused can show reasonably sufficient evidence of ties to the community;

28 (4) The accused reasonably appears to not represent a danger of harm to himself or
29 herself, another person, or property;

30 (5) The accused does not have a criminal history that indicates that the person failed to
31 appear at a court other than for offenses for which a cash bond was properly posted and
32 forfeited in lieu of appearance;

33 (6) Further arrest and detention of the accused does not appear to be necessary to carry
34 out legitimate investigative action; and

(7) The accused does not appear to the officer as reasonably likely to commit further offenses.

(c) An accused shall not be eligible to receive a nontraffic citation under this article if the misdemeanor offense arises out of an act of family violence as defined in Code Section 19-13-1; if the accused is on probation, including first offender probation, or parole or has any outstanding warrants for his or her arrest; or if the accused is a registered sex offender.

17-4-83.

(a) The nontraffic citation form developed by the commissioner of public safety pursuant to this article shall be designed to:

(1) Identify the offense and Code section, together with any subsection thereof, which the person is alleged to have violated, including the date of the offense and, if material, the property and persons involved in the offense;

(2) Record the name, address, telephone number, driver's license number, state issued identification card number, and other identifying information of the person cited;

(3) Identify the law enforcement agency together with the name and badge number of the officer issuing the citation;

(4) Direct the person cited to appear for arraignment in a designated court at a designated time and place which dates and times have been previously approved by the prosecuting attorney of the designated court; and

(5) List the name, address, and telephone number of each witness or indicate that such information will be contained within a report made by the arresting officer.

(b) All courts having jurisdiction of the offense charged in the nontraffic citation may proceed with the adjudication of the offenses contained within the complaint without the necessity of filing an indictment or other accusation in order to bring the accused to trial.

(c) A copy of the citation shall be delivered to the person cited and the original shall be filed with the prosecuting officer of the designated court.

(d) If the prosecuting officer of the designated court decides to prosecute the offense or offenses charged, he or she may file the nontraffic citation with the designated court as the charging accusation or summons or the prosecuting attorney may substitute his or her own accusation pursuant to Code Section 17-7-71. If the prosecuting attorney declines to prosecute, he or she shall give reasonable notice to the accused that the accused shall not be required to appear as directed in the citation.

17-4-84.

1 The mere issuance of a nontraffic citation shall not bar the subsequent issuance of an arrest
2 warrant, accusation, or indictment for the same offense.

3 17-4-85.

4 Any person charged in a nontraffic citation with committing a criminal offense requiring
5 that such person submit to post-arrest processing pursuant to Code Section 35-3-36, which
6 shall be deemed to include, but not be limited to, being fingerprinted, described,
7 photographed, and other pertinent identifying data obtained, shall submit to such post-arrest
8 processing either at the time of citation arrest, arraignment, or as thereafter directed by the
9 court or prosecuting official. Failure to timely appear for post-arrest processing as directed
10 by the arresting officer, the court having jurisdiction, or the prosecuting official of the
11 designated court, after notice given to the accused personally or by mailing notice to the
12 person's address as it appears on the person's driver's license or state issued identification
13 card, shall provide an additional basis for the issuance of an arrest warrant for the arrest of
14 the person charged.

15 17-4-86.

16 If the accused person fails to appear as specified in the nontraffic citation, the judicial
17 officer having jurisdiction of the offense may issue a warrant ordering the apprehension of
18 the person and commanding that the person be brought before the court to answer the
19 charge contained within the citation and the charge of the person's failure to appear as
20 required. The person shall then be allowed to make a reasonable bond to appear on a given
21 date before the court."

22 **SECTION 2.**

23 Said title is further amended by adding a new paragraph (3) to subsection (b) of Code Section
24 17-7-71, relating to trial of misdemeanors, to read as follows:

25 "(3) In all misdemeanor cases arising out of violations of the laws of this state for which
26 a nontraffic citation was issued, the defendant may be tried upon the citation provided for
27 in Article 5 of Chapter 4 of this title."

28 **SECTION 3.**

29 Code Section 16-10-51 of the Official Code of Georgia Annotated, relating to bail jumping,
30 is amended by striking subsection (b) and inserting in lieu thereof a new subsection (b) to
31 read as follows:

1 "(b)(1) Any person who has been charged with or convicted of the commission of a
2 misdemeanor and has been set at liberty on bail or on his or her own recognizance upon
3 the condition that he or she will subsequently appear at a specified time and place
4 commits the offense of misdemeanor-bail jumping if, after actual notice to the defendant
5 in open court or notice to the person by mailing to his or her last known address or
6 otherwise being notified personally in writing by a court official or officer of the court,
7 he or she fails without sufficient excuse to appear at that time and place.

8 (2) Any person who has been arrested and charged with the commission of a
9 misdemeanor and has been set at liberty on his or her own recognizance pursuant to the
10 issuance of a nontraffic citation upon the condition that he or she will subsequently
11 appear at a specified time and place commits the offense of misdemeanor-bail jumping
12 if he or she fails without sufficient excuse to appear at that time and place.

13 (3) A person convicted of the offense of misdemeanor-bail jumping shall be guilty of a
14 misdemeanor."

15 **SECTION 4.**

16 For the purposes of developing the form of the nontraffic citation and promulgating any rules
17 and regulations required for its use, this Act shall become effective upon its approval by the
18 Governor or upon its becoming law without such approval. The remaining portions of this
19 Act shall become effective on July 1, 2006, and shall apply to all offenses committed on or
20 after such date.

21 **SECTION 5.**

22 All laws and parts of laws in conflict with this Act are repealed.